

APPEAL NO. 022855
FILED DECEMBER 18, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on October 10, 2002. The hearing officer determined that the appellant (claimant) had not sustained a compensable injury in the form of an occupational (repetitive trauma) disease; that because there was no compensable injury there is no disability; that the respondent (carrier) is relieved of liability because the claimant failed to give timely notice to the employer and did not have good cause for failing to do so; and that the date of injury (pursuant to Section 408.007) was _____. The hearing officer's determination on the date of injury has not been appealed and has become final pursuant to Section 410.169.

The claimant appeals the determinations on injury, disability, and notice basically on a sufficiency of the evidence basis. The carrier responds urging affirmance.

DECISION

Affirmed.

The claimant, a "Review Operator" (mail processor), alleges a repetitive trauma injury to her left wrist from opening mail. The mechanics of the job and how many pieces of mail the claimant handled in an hour are somewhat in dispute. (While the claimant apparently handled between 200 and 400 pieces of mail an hour most were opened mechanically by a machine.) The claimant saw the doctor on October 31, 2001 (she testified she knew her discomfort was work-related on _____). Although the claimant testified that she reported a work-related injury to several supervisors on October 31, 2001, or shortly thereafter, that testimony is contradicted by the supervisors' testimony and the claimant's own recorded statement. The claimant was then taken off work for an unrelated back condition and returned to work part time on January 22, 2002, drawing her full wages under a short term group disability plan. The claimant's doctor wrote the employer a letter dated March 21, 2002, received by the employer March 22, 2002, indicating that the claimant had sustained a work-related carpal tunnel syndrome injury.

The evidence was in conflict on the appealed issues. The evidence presented questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the fact finder, the hearing officer was charged with the responsibility of resolving the conflicts and inconsistencies in the evidence and deciding what facts the evidence has established. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer was acting within his province as the fact finder in resolving the conflicts and inconsistencies in the evidence against the claimant. Nothing in our review of the record reveals that the challenged

determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Accordingly, no sound basis exists for us to disturb those determinations on appeal.

We do note that the claimant's appeal cites several cases for the proposition that issues of injury and disability may be established by the testimony of the claimant alone (if believed by the hearing officer, who in this case commented that the claimant "was neither credible or persuasive"). We agree with that proposition but the claimant then goes on to conclude that "where an injury is clearly evident by the medical evidence, the court decisions and Appeals Panel decisions give presumptive weight to the Claimant's description of how the injury occurred." The claimant cites no authority for that proposition and we disagree with it as being a misstatement of the law.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **THE TRAVELERS INDEMNITY COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Veronica Lopez
Appeals Judge

Michael B. McShane
Appeals Panel
Manager/Judge